IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

ST.Rev..No. 253 of 2007

T.A.NO.16/2000 DATED 10.4.2007 OF SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOZHIKODE.

REVISION PETITIONER/APPELLANT/ASSESSEE:

K.P.JYOTHISH, S/O BHASKARAN,
LEGAL HEIRS OF LATE SRI PANDAN KRISHNAN,
PROP. GEETHA CONFECTIONARY, KANNUR.

BY ADV. SRI.E.P.GOVINDAN

RESPONDENT: RESPONDENT/REVENUE:

STATE OF KERALA REPRESENTED BY SECRETARY
TAXES DEPARTMENT,GOVERNMENT SECRETARIAT,
TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.K.B.PRADEEP

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 14/09/2007, ALONGWITH S.T.RV.NOS.254 & 255 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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SALES TAX REVISION Nos. 253, 254

AND 255 OF 2007

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Dated this the 14th September , 2007

O R D E R

H.L. Dattu, C.J.:

Though these Sales Tax Revision cases are posted in the admission list, with the consent of the counsel for the parties to the list, the cases are taken up for final hearing.

2. These Revision cases are filed by one K.P. Jyothish, S/o. Bhaskaran. He claims that he is one of the legal heirs of late Pandan Krishnan, who was the proprietor of 'Geetha Confectionary, Kannur' and that these revision cases are filed on behalf of other legal heirs also. He also claims that under a 'Will' he has been authorised to run the business of 'Geetha Confectionary, Kannur '.

3. In these Revision cases, the petitioner calls in question the orders passed by the Kerala Sales Tax Appellate Tribunal in T.A.Nos. 16, 17 and 18 of 2007 dated 10.04.2007.

4. Late Pandan Krishnan was the proprietor of 'Geetha Confectionary, Kannur'. He was a dealer under the provisions of the Kerala General Sales Tax Act, 1963 (hereinafter referred to as 'Act'). For the assessment years 1997-98, 1998-99 and 1999-2000, he had filed his annual returns before the assessing authority. We are informed that even before completing the

assessment proceedings, the assessee, viz., late Pandan Krishnan expired.

5. It is the case of the petitioner before this court as well as before the Sales Tax Appellate Tribunal that the assessing authority has passed orders of assessment on a dead person and therefore, the petitioner requests this court, to set aside the ex parte order passed by the assessing authority and permit the petitioner, who claims to be one of the legal heirs of late Pandan Krishnan-assessee, to produce the books of accounts before the assessing authority and then to claim for certain benefits under the Act.

6. Shri K.B. Pradeep, learned Government Pleader, on instruction, would submit that the matter may be remanded back to the assessing authority to re-do the assessment proceedings in accordance with law after notice to K.P. Jyothish, the petitioner in these Revision cases, who claims to be the proprietor of 'Geetha Confectionary, Kannur'.

7. Admittedly, an ex parte order is passed by the assessing authority. According to K.P. Jyothish-petitioner, the said assessment orders are passed against a dead person. On a perusal of the facts mentioned in these Revision cases, we are of the opinion that even before the orders of assessment could be passed by the assessing authority, the assessee -Pandan Krishnan expired. The orders of assessment passed on a dead person is a nullity in the eye of law and therefore, the said assessment orders and all other orders passed pursuant thereto require to be set aside. Accordingly, the following:

O R D E R

i) The Sales Tax Revision cases are allowed.

ii) The orders of assessment for the years , 1997-98, 1998-99 and 1999-2000 passed by the assessing authority, are set aside.

iii) The petitioner, K.P. Jyothish, S/o. Bhaskaran, who claims to be one of the legal heirs of late Pandan Krishnan, will now produce the books of accounts before the assessing authority, within a period of one month from today.

iv) The assessing authority, after going through the books of accounts and other materials which may be produced by the petitioner, will complete the assessment proceedings in accordance with law.

v) All the contentions of both the parties are left open.

vi) Pending Interlocutory Applications in these Sales Tax Revision cases are also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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